

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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DISABILITY SUPPORT ALLIANCE,  
on behalf of its members, and ERIC  
WONG,

Plaintiffs,

vs.

HEARTWOOD ENTERPRISES, LLC,

Defendant.

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No.: 15-cv-529 PAM/FLN

**AFFIDAVIT OF JOSEPH M.  
WINDLER**

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN)

I, Joseph M. Windler, being first duly sworn upon oath, depose and state as follows:

1. I am a shareholder with the law firm of Winthrop & Weinstine, P.A. (“Winthrop & Weinstine”). I represent Defendant Heartwood Enterprises, LLC (“Heartwood”), in the above-captioned matter. As such, I have personal knowledge of the facts set forth herein.

2. I graduated *magna cum laude* from the University of Minnesota Law School in 2007. I have worked at Winthrop & Weinstine since graduation and became a shareholder in 2014. I am also an adjunct professor at the University of Minnesota Law School. I was named a “Rising Star” by Super Lawyers from 2011-15. The final published list of “Rising Stars” represents no more than two and a half percent (2.5%) of

all lawyers in the State of Minnesota. I was named an “Up and Coming Attorney” in 2012 by Minnesota Lawyer. I was named a “Future Star” by Benchmark Litigation in 2015-16. My practice has focused primarily on business and commercial litigation but I have also represented several clients in civil rights related cases. My hourly rate for 2015 was \$350 and for 2016 is \$360.

3. Winthrop & Weinstine is a full service firm with nearly 130 attorneys in its Minneapolis office. In October 2015, “Benchmark Litigation” named Winthrop & Weinstine a “highly recommended” law firm. The attorneys that worked on the file on behalf of Heartwood were precluded from working on other matters during the time that they worked on the Heartwood matter.

4. During my years of private legal practice, I have worked on over 100 litigated matters.

5. From January 23, 2015 to March 2016, Winthrop & Weinstine provided legal services to Heartwood with respect to the above-captioned case.

6. Attached hereto as **Exhibit A** (*filed under seal*) is a true and correct copy of Winthrop & Weinstine’s Billed and Unbilled Recap of Cost Detail for attorneys’ fees incurred in relation to this matter through February of 2016, excluding the attorneys’ fees incurred in bringing Heartwood’s Motion to Strike the Declaration of Peter Hansmeier and certain fees which Heartwood is not seeking to recover. Information protected by the attorney-client privilege and work product doctrine has been redacted. The requested attorneys’ fees incurred in this matter total \$76,919.75, which include \$5,448.00 incurred in bringing this action.

7. Christina Rieck Loukas graduated from the University of Chicago Law School in 2007 and is an associate at Winthrop & Weinstine and practices business and commercial litigation. Ms. Loukas has handled a wide variety of legal disputes including some civil rights litigation. Ms. Loukas' hourly rate for 2015 was \$320 and for 2016 is \$335. Reid J. Golden is an associate at Winthrop & Weinstine. He graduated from the University of Minnesota Law School in 2012 and practices business and commercial litigation. Prior to joining Winthrop & Weinstine, in law school Mr. Golden worked as a law clerk in the Minneapolis City Attorney's Office in the Criminal Division and worked as a volunteer law clerk at the Minnesota Justice Foundation. Mr. Golden's hourly rate for 2015 was \$270 and for 2016 is \$280. Quin Seiler graduated from the University of Minnesota Law School in 2014 and practices business and commercial litigation. Her hourly rate for 2015 was \$235 and for 2016 is \$250. Jennifer A. Taplin is an experienced litigation paralegal who has been with Winthrop & Weinstine since 2006. Ms. Taplin's hourly rate for 2015 was \$205 and for 2016 was \$210. Jacqueline Rolf and Joseph Halverson are all litigation support specialist at Winthrop & Weinstine. Their hourly rate for 2015 was \$220 and is \$230 for 2016.

8. I have reviewed the original time records supporting all entries on **Exhibit A** (*filed under seal*). All of the work on **Exhibit A** (*filed under seal*) was performed for the benefit of the client and was necessary for the proper representation of the client, and charges for any unnecessary or duplicative work have been eliminated.

9. In my opinion, all of the rates referenced in paragraph 7 above are reasonable rates for attorneys, paralegals, and litigation support specialists with similar experience in the Minneapolis/St. Paul area.

10. The fees Winthrop & Weinstine charged Heartwood were our standard hourly rates, which are reasonable for this community.

11. Attached hereto as **Exhibit B** is a true and correct copy of Winthrop & Weinstine's Billed and Unbilled Recap of Cost Detail for costs incurred in relation to this matter, excluding the costs incurred in bringing Heartwood's Motion to Strike the Declaration of Peter Hansmeier and which were included in Heartwood's Bill of Taxable Costs. Such costs incurred by Winthrop & Weinstine are \$897.40. These costs are reasonable based on other costs incurred by attorneys in the Minneapolis/St. Paul area.

12. Similar to me, Paul Hansmeier, Plaintiffs' council, attended the University of Minnesota Law School. Paul Hansmeier also graduated in 2007. Paul Hansmeier has also sought fees at the rate of \$350.00 per hour in similar civil rights related cases.

13. Attached as **Exhibit C** is a true and correct copy of the Affidavit of Paul Hansmeier filed in Hennepin County, MN on January 27, 2015 in the case *Eric Wong v. Familia Dominguez Holdings LLC and Family Dominquez, Inc.* In Paul Hansmeier's affidavit he seeks fees at the rate of \$350.00 per hour.

14. Attached as **Exhibit D** is a true and correct copy of the Affidavit of Paul Hansmeier filed in Hennepin County, MN on August 8, 2015 in the case *Eric Wong v. Chatterbox Enterprises, Inc. and Tyrone Sharpe*. In Paul Hansmeier's affidavit he seeks fees at the rate of \$350.00 per hour.

15. I have reviewed a May 2011 survey by Pricewaterhouse Coopers concerning the rates charged by lawyers in the Minneapolis and St. Paul area. According to the 2011 Pricewaterhouse Coopers survey, the hourly billing rates for attorneys at large law firms in Minneapolis and St. Paul in 2011 were as follows:

	1 <sup>st</sup> Quartile	Median	3 <sup>rd</sup> Quartile
High-Level Equity Partner	\$725	\$630	\$600
Mid-Level Equity Partner	\$474	\$468	\$430
Low-Level Equity Partner	\$343	\$328	\$325
Associate	\$277	\$270	\$256

16. While the information contained in the Pricewaterhouse Coopers survey is nearly five years old, it reflects that the rates charged by Winthrop & Weinstine are reasonable based on the prevailing rates at large firms in the area.

17. Based on the fees awarded in these cases, the fees charged by Winthrop & Weinstine are reasonable.

18. I conducted a meet and confer conference with Plaintiffs' counsel Paul Hansmeier on March 25, 2015.

19. During the meet and confer conference on March 25, 2015 and the Court's Rule 16 conference on May 27, 2015, and before any significant activity in this case, I

told Paul Hansmeier that removal of the purported architectural barriers was not readily achievable because of the excessive cost of removal and Heartwood's limited resources.

20. Mr. Hansmeier and Plaintiffs were also informed that the bids Heartwood had received to make the entrance ADA compliant ranged from \$11,987 to \$22,621 when they received the expert report of Julee Quarve-Peterson on September 1, 2015.

21. Heartwood served Plaintiffs with Interrogatories and Document Requests on June 10 and September 23, 2015.


22. Plaintiffs did not serve Heartwood with any discovery or take any depositions in the above-captioned case. Plaintiffs only discovery was a site inspection.

23. Attached as **Exhibit E** is a true and correct copy of the expert report of Julee Quarve-Peterson served upon Plaintiffs on September 1, 2015.

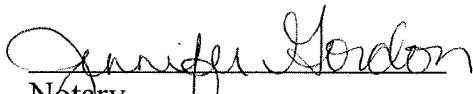
24. Attached hereto as **Exhibit F** (*filed under seal*) is a true and correct copy of Billed and Unbilled Recap of Time Detail and Costs by Winthrop & Weinstine, P.A. which relate to the instant motion.

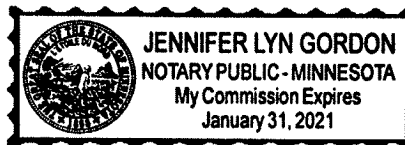
25. Attached hereto as **Exhibit G** is a true and correct copy of an invoice from Julee Quarve-Peterson, Inc. related to its expert services rendered to Heartwood in connection with Heartwood's defense. This invoice totals \$1,247.90 and has been paid in full.

FURTHER YOUR AFFIANT SAITH NAUGHT.

  
Joseph M. Windler

Subscribed and sworn to  
before me this 25<sup>th</sup> day  
of March, 2016.

  
Notary



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